

(3)  
No. 05-986

Supreme Court, U.S.  
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In The  
**Supreme Court of the United States**

RENESAS TECHNOLOGY AMERICA, INC.,

*Petitioner,*

v.

UNITED STATES AND  
MICRON TECHNOLOGY, INC.,

*Respondents.*

On Petition For A Writ Of *Certiorari*  
To The United States Court Of Appeals  
For The Federal Circuit

BRIEF IN OPPOSITION OF  
MICRON TECHNOLOGY, INC.

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## QUESTION PRESENTED

Whether the United States Court of Appeals for the Federal Circuit ("Federal Circuit") correctly held that certain entries of dynamic random access memory semiconductors ("DRAMs") imported by Renesas Technology America, Inc. ("Renesas") were not "covered" by the first and second administrative review determinations of the antidumping order on DRAMs from Korea under 19 U.S.C. § 1675(a)(2)(C) and, therefore, were subject to the cash deposit rate paid upon entry when (i) Renesas purchased its DRAMs from a Japanese reseller unrelated to the Korean manufacturer, (ii) the domestic interested party's requests for reviews of the Korean manufacturer did not encompass the Japanese reseller's pricing practices, (iii) Renesas failed to request its own reviews of the reseller's pricing practices, and (iv) the Japanese reseller's pricing practices were not actually examined during the first or second administrative reviews.

**PARTIES TO THIS PROCEEDING  
AND RULE 29.6 STATEMENT**

The parties to this proceeding are the same as those in the Federal Circuit: Petitioner Renesas and Respondents, the United States and Micron Technology, Inc. ("Micron"). Micron has no parent company, and no publicly held company owns 10 percent or more of Micron's stock.

## TABLE OF CONTENTS

	Page
<b>TABLE OF AUTHORITIES.....</b>	<b>v</b>
I. OPINIONS BELOW .....	1
II. JURISDICTION .....	1
III. STATUTES AND REGULATIONS.....	2
IV. STATEMENT .....	4
A. The Antidumping Investigation And Antidumping Duty Order.....	4
B. Statutory And Regulatory Provisions For Administrative Review Of The Antidumping Order .....	5
C. Renesas's Entries And Its Opportunities To Request Administrative Reviews.....	6
1. The first administrative review (October 1992-April 1994).....	6
2. The second administrative review (May 1994-April 1995).....	8
D. Judicial Review Of Commerce's First And Second Administrative Reviews And The Issuance Of Commerce's Liquidation Instructions .....	9
E. Judicial Review Of Commerce's Liquidation Instructions .....	10
V. REASONS FOR DENYING THE PETITION ...	12
A. The Federal Circuit's Decision Does Not Implicate An Important Issue Of Federal Law .....	12

## TABLE OF CONTENTS – Continued

	Page
1. Renesas seeks <i>certiorari</i> review of an assessment practice that was not actually applied to it or adjudicated by the Federal Circuit .....	12
2. The antidumping statute and Commerce's regulations provided Renesas with a vehicle for review of the reseller's pricing practices and the calculation of a rate specific to its entries.....	17
3. Review of the Federal Circuit's decision would require this Court to engage in a duplicative, fact-specific inquiry .....	20
B. The Federal Circuit Correctly Decided The Case .....	21
VI. CONCLUSION.....	29
APPENDIX.....	App. 1

## TABLE OF AUTHORITIES

	Page
<b>FEDERAL CASES</b>	
<i>Consolidated Bearings Co. v. United States</i> , 412 F.3d 1266 (Fed. Cir. 2005) .....	11, 20, 21, 28
<i>Consolidated Bearings Co. v. United States</i> , 348 F.3d 997 (Fed. Cir. 2003) .....	<i>passim</i>
<i>Consolidated Bearings Co. v. United States</i> , 166 F. Supp. 2d 580 (Ct. Int'l Trade 2001), <i>rev'd</i> , 348 F.3d 997 (Fed. Cir. 2003) .....	10
<i>Federal Crop Ins. Co. v. Merrill</i> , 332 U.S. 380, 68 S. Ct. 1 (1947) .....	27
<i>Floral Trade Council v. United States</i> , 17 CIT 1417 (1993) .....	23
<i>Floral Trade Council v. United States</i> , 888 F.2d 1366 (Fed. Cir. 1989) .....	23
<i>J.S. Stone, Inc. v. United States</i> , 297 F. Supp. 2d 1333 (Ct. Int'l Trade 2003), <i>aff'd</i> , 111 Fed. Appx. 611 (Fed. Cir. 2004) .....	18
<i>LG Semicon Co. v. United States</i> , 23 CIT 1074 (1999) .....	24
<i>Micron Tech. v. United States</i> , 44 F. Supp. 2d 216 (Ct. Int'l Trade 1999) .....	9
<i>Micron Tech. v. United States</i> , 40 F. Supp. 2d 481 (Ct. Int'l Trade 1999), <i>aff'd in part, rev'd in part</i> , 243 F.3d 1301 (Fed. Cir. 2001) .....	9
<i>Nissei Sangyo Am. Ltd. v. United States</i> , No. 04-1469, -1492, 2005 U.S. App. LEXIS 13277 (Fed. Cir. July 1, 2005), <i>reh'g denied</i> , 2005 U.S. App. LEXIS 24124 (Fed. Cir. Oct. 18, 2005), <i>petition for cert. filed</i> , No. 05-918 (U.S. Jan. 17, 2006) .....	11, 12

## TABLE OF AUTHORITIES – Continued

	Page
<i>Renesas Tech. Am., Inc. v. United States</i> , No. 04-1473, -1474, 2005 U.S. App. LEXIS 13278 (Fed. Cir. July 1, 2005), <i>reh'g denied</i> , 2005 U.S. App. LEXIS 21877 (Fed. Cir. Sept. 19, 2005), <i>petition for cert. filed</i> , No. 05-986 (U.S. Feb. 2, 2006).....	1, 12, 14, 20, 21
<i>Renesas Tech. Am., Inc. v. United States</i> , No. 00-00114, 2003 Ct. Intl. Trade LEXIS 105 (Ct. Int'l Trade Aug. 18, 2003), <i>rev'd</i> , No. 04-1473, -1474, 2005 U.S. App. LEXIS 13278 (Fed. Cir. July 1, 2005), <i>reh'g denied</i> , 2005 U.S. App. LEXIS 21877 (Fed. Cir. Sept. 19, 2005), <i>petition for cert. filed</i> , No. 05-986 (U.S. Feb. 2, 2006).....	1, 10
<i>Ticor Title Ins. Co. v. Brown</i> , 511 U.S. 117 (1994) .....	16
<i>Torrington Co. v. United States</i> , 68 F.3d 1347 (Fed. Cir. 1995) .....	13

## DOCKETED CASES

<i>Hitachi High Technologies Am., Inc. v. United States</i> , No. 05-918 (U.S. Jan. 24, 2006).....	12
--	----

## FEDERAL STATUTES AND LEGISLATIVE HISTORY

19 U.S.C. § 1675(a).....	5, 6, 14, 17, 18
19 U.S.C. § 1675(a)(2)(C).....	10, 23
28 U.S.C. § 1254(1).....	2
28 U.S.C. § 1295(a)(5) .....	13
28 U.S.C. § 1581(i).....	13

## TABLE OF AUTHORITIES - Continued

	Page
H.R. Conf. Rep. No. 98-1156, 98th Cong., 2d Sess. (1984), <i>reprinted in</i> 1984 U.S.C.C.A.N. 5298.....	18
Trade and Tariff Act of 1984, Pub. L. No. 98-573, § 611(a)(1), 98 Stat. 2948 (1984) .....	6, 18
 <b>AGENCY REGULATIONS AND DETERMINATIONS</b>	
19 C.F.R. § 351.212(c).....	5
19 C.F.R. § 351.213(b) .....	5
19 C.F.R. § 351.701.....	2
19 C.F.R. § 353.2(k)(3).....	2
19 C.F.R. § 353.2(u) .....	27
19 C.F.R. § 353.22(a) .....	3, 5, 17, 18
19 C.F.R. § 353.22(a)(1) .....	22
19 C.F.R. § 353.22(e).....	3, 5, 18, 27
<i>Antidumping And Countervailing Duty Proceedings: Assessment Of Antidumping Duties</i> , 68 Fed. Reg. 23954 (Dep't Commerce May 6, 2003) .....	16
<i>Antidumping And Countervailing Duty Proceedings: Assessment Of Antidumping Duties</i> , 63 Fed. Reg. 55361 (Dep't Commerce Oct. 15, 1998).....	15, 26
<i>Antidumping Duties</i> , 54 Fed. Reg. 12742 (Dep't Commerce Mar. 28, 1989).....	2, 17
<i>Antidumping Duty Order and Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea</i> , 58 Fed. Reg. 27520 (Dep't Commerce May 10, 1993).....	4

## TABLE OF AUTHORITIES - Continued

	Page
<i>Antidumping Or Countervailing Duty Order, Finding, Or Suspended Investigation; Opportunity To Request An Administrative Review</i> , 60 Fed. Reg. 24831 (Dep't Commerce May 10, 1995).....	8, 22
<i>Antidumping Or Countervailing Duty Order, Finding, Or Suspended Investigation; Opportunity To Request An Administrative Review</i> , 59 Fed. Reg. 23051 (Dep't Commerce May 4, 1994).....	7, 22, 27
<i>Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review</i> , 62 Fed. Reg. 965 (Dep't Commerce Jan. 7, 1997).....	8
<i>Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review</i> , 61 Fed. Reg. 20216 (Dep't Commerce May 6, 1996).....	7, 10, 28
<i>Initiation Of Antidumping And Countervailing Duty Administrative Reviews</i> , 60 Fed. Reg. 31447 (Dep't Commerce June 15, 1995) .....	2, 8
<i>Initiation Of Antidumping And Countervailing Duty Administrative Reviews And Request For Revocation In Part</i> , 59 Fed. Reg. 30770 (Dep't Commerce June 15, 1994) .....	2, 7

## TABLE OF AUTHORITIES – Continued

	Page
<b>MISCELLANEOUS</b>	
<i>Ministerial Meeting of the World Trade Organization (WTO): Hearing Before Senate Finance Comm.</i> , Sept. 29, 1999 (Statement of William Daley, Sec'y of Commerce of the United States), available at <a href="http://www.ogc.doc.gov/ogc/legreg/testimon/106f/daley0929.htm">www.ogc.doc.gov/ogc/legreg/testimon/106f/daley0929.htm</a> .....	13
S.Ct.R. 10.....	21

## BRIEF IN OPPOSITION OF MICRON TECHNOLOGY, INC.

Micron respectfully opposes the petition for writ of *certiorari* filed by Renesas to review the judgment of the Federal Circuit. The Federal Circuit deemed that judgment to be non-precedential under Federal Circuit Rule 47.6(b), that is, "one determined by the panel issuing it as not adding significantly to the body of law." For the reasons set forth below, Renesas's petition should be denied.

### I. OPINIONS BELOW

The decision of the Federal Circuit is unpublished, but is reported as *Renesas Tech. Am., Inc. v. United States*, No. 04-1473, -1474, 2005 U.S. App. LEXIS 13278 (Fed. Cir. July 1, 2005), *reh'g denied*, 2005 U.S. App. LEXIS 21877 (Fed. Cir. Sept. 19, 2005), *petition for cert. filed*, No. 05-986 (U.S. Feb. 2, 2006). The decision also is attached to Renesas's petition at Appendix 1-3.

The decision of the United States Court of International Trade ("CIT") is unpublished, but is reported at *Renesas Tech. Am., Inc. v. United States*, No. 00-00114, 2003 Ct. Intl. Trade LEXIS 105 (Ct. Int'l Trade Aug. 18, 2003), *rev'd*, No. 04-1473, -1474, 2005 U.S. App. LEXIS 13278 (Fed. Cir. July 1, 2005), *reh'g denied*, 2005 U.S. App. LEXIS 21877 (Fed. Cir. Sept. 19, 2005). The decision also is attached to Renesas's petition at Appendix 4-19.

### II. JURISDICTION

The Federal Circuit entered judgment on July 1, 2005, and denied Renesas's petition for panel rehearing and rehearing *en banc* on September 19, 2005. (Pet. App. 3, 67-68).

Renesas sought and received an extension of time to file its petition for writ of *certiorari* to and including February 2, 2006. Renesas filed its petition for writ of *certiorari* on February 2, 2006. The jurisdiction of this Court has been invoked under 28 U.S.C. § 1254(1).

### III. STATUTES AND REGULATIONS

Pursuant to Rules 15.3 and 24.2, Respondent Micron is satisfied with Petitioner's statement except with respect to Petitioner's presentation of regulations. The following regulations apply.<sup>1</sup>

#### § 353.2 Definitions . . .

- (k) *Interested party.* "Interested party" means: . . .
- (3) A producer in the United States of the like product or seller (other than a retailer) in the United States of the like product produced in the United States;

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<sup>1</sup> The regulations applicable to these proceedings are those in effect before the enactment of the Uruguay Round Agreements Act ("URAA"). The earlier version of these regulations is published in the Federal Register at *Antidumping Duties*, 54 Fed. Reg. 12742 (Dep't Commerce Mar. 28, 1989). The post-URAA regulations, 19 C.F.R. Part 351, apply to "administrative reviews initiated on the basis of requests made on or after the first day of July 1997. . . . Segments of proceedings to which part 351 [i.e., the post-URAA regulations] do not apply will continue to be governed by the regulations in effect on the date the . . . requests were made for those segments. . . ." 19 C.F.R. § 351.701. Commerce initiated the first review on June 15, 1994, *Initiation Of Antidumping And Countervailing Duty Administrative Reviews And Request For Revocation In Part*, 59 Fed. Reg. 30770 (Dep't Commerce June 15, 1994) and the second review on June 15, 1995, *Initiation Of Antidumping And Countervailing Duty Administrative Reviews*, 60 Fed. Reg. 31447 (Dep't Commerce June 15, 1995).